

# United States District Court

EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

RICHARD MCKINNEY

v.

TEXAS DEPARTMENT OF PUBLIC  
SAFETY, ET AL.

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Case No. 4:10cv558  
(Judge Schneider/Judge Mazzant)

## **MEMORANDUM ADOPTING REPORT AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On January 18, 2011, the report of the Magistrate Judge was entered containing proposed findings of fact and recommendations that Defendant Texas Department of Public Safety's Motion to Dismiss pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) based upon Eleventh Amendment immunity (Dkt. #12) should be granted.

Having received the report of the United States Magistrate Judge, and no objections thereto having been timely filed, this Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge's report as the findings and conclusions of the Court.

It is, therefore, **ORDERED** that Defendant Texas Department of Public Safety's Motion to Dismiss pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) based upon Eleventh

Amendment immunity (Dkt. #12) is GRANTED and Texas Department of Public Safety is DISMISSED with prejudice.

**It is SO ORDERED.**

**SIGNED this 11th day of February, 2011.**

A handwritten signature in black ink, reading "Michael H. Schneider", is written over a horizontal line.

MICHAEL H. SCHNEIDER  
UNITED STATES DISTRICT JUDGE